

**Intellectual Property Law Group****Verizon Corporate Services Group Inc**

600 Hidden Ridge Drive  
Irving, Texas 75038  
MailCode HQE03H14  
Phone: 972/718-4800  
Fax: 972/718-3946  
E mail:  
christian.andersen@verizon.com

To: U.S. Patent and Trademark Office - From: Christian R. Andersen  
MAIL STOP: APPEAL BRIEF - Sr. Paralegal - Intellectual Property  
PATENTS  
Examiner: BAYERL, Raymond J.  
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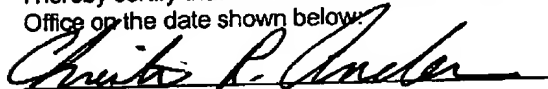
**FORMAL SUBMISSION OF:**

1) Reply Brief.

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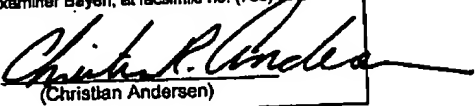
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Docket No.: 99-820

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Meeks, et al.

Group Art Unit: 2173

Serial No.: 09/362,014

Examiner: Bayerl, Raymond J.

Filed: July 27, 1999

For: **METHOD AND APPARATUS FOR APPLICATION SHARING  
INTERFACE**

Attorney Docket No.: 99-820

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
United States Patent and Trademark Office  
Washington D.C. 20231

Dear Sir:

This is a Reply Brief submitted pursuant to 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed April 20, 2005 ("Examiner's Answer"). Appellants' Appeal Brief ("Appeal Brief"), appealing from the decision of the Primary Examiner dated May 28, 2004 ("Final Office Action"), was filed on January 31, 2005.

Claims 1-43 are pending. Claims 18-25 and 35 are allowed. Claims 27, 29, and 31-34 have been indicated to contain allowable subject matter, but are objected to as depending from rejected base claims. Claims 1-17, 26, 28, 30, and 36-43, reproduced in the Appendix to the Appeal Brief, have been rejected and are the subject of this appeal.

Claims 1-8, 10, 12-17, and 42-43 stand rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,308,199 ("Katsurabayashi") in view of U.S. Patent No. 5,758,110 ("Boss"). Claims 9 and 11 stand rejected as obvious over Katsurabayashi in view of Boss and Anderson. Claims 26 and 28 under 35 U.S.C. § 103(a) stand rejected as obvious over Katsurabayashi in view of U.S. Patent No.

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5,907,324 ("Larson"). Claims 30 and 36-41 stand rejected under 35 U.S.C. § 103(a) as obvious over Katsurabayashi in view of U.S. Patent No. 5,790,127 ("Anderson").

### ISSUES

The Examiner disagreed with Appellants' statement of the issues (*see* Appeal Brief, pages 4-5) in this Appeal. The Examiner's Answer (pages 2-3) stated

For example, "Issue 1. Does Katsurabayashi teach or suggest a host user selecting documents to be shared as is required by independent claims 1-2 and 7-8?" is not the true issue; instead, the relevant issue is "Does the combination of Katsurabayashi and Boss render claims 1-8, 10, 12-17, 42, [and] 43 obvious under 35 USC 103(a)." The relevance of Katsurabayashi alone is not the issue.

However, the Examiner's statement notwithstanding, Appellants' statement of the issues in this Appeal follows directly from the Examiner's previous explanation of the grounds for rejecting Appellants' claims. For example, regarding Issue No. 1, after Appellants pointed out that the Examiner had failed to address their claim limitations directed toward selecting a document or documents (Remarks, April 30, 2004, page 16), the Examiner responded that "[t]he intent of relying on Katsurabayashi . . . was to enable shared access to a single window session on multiple workstations. When this connection is made, then a single instance, opened on a single file or document, will then be created." (Final Office Action, page 9.)

Based on the foregoing statement in the Final Office Action, an issue clearly presented to this Board from the record in this case, as stated by Appellants in their Appeal Brief, is whether Katsurabayashi teaches or suggests a host user selecting documents to be shared as is required by independent claims 1-2 and 7-8. It is clear from the Examiner's explanation of the grounds for the rejection of claims 1-2 and 7-8 that, if Katsurabayashi does not so teach or suggest, then the rejection of those claims cannot stand. In asserting that the proper issues in this appeal are whether a combination of references renders each of Appellants' claims obvious (Examiner's Answer, page 3), the Examiner is attempting to obscure the fact that the stated rejections of Appellants' claims can be upheld only if one or more prior art references teach or suggest each and every one of the limitations of Appellants' claims. Appellants' statement of the issues correctly addresses this Board's attention to each of the stated grounds for rejecting Appellants' claims at issue in this Appeal.

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**GROUPING OF CLAIMS**

Appellants thank the Examiner for pointing out that the Appeal Brief erroneously included claim 10 in Claim Group 1. Appellants agree with the Examiner's statement of Claims Groups 1 and 2. (Examiner's Answer, page 3.)

**ARGUMENT**

**A. Claims 1-8, 10, 12-17, and 42-43 Are Patentable Over The Combination Of Katsurabayashi And Boss.**

Claims 1-8, 10, 12-17, and 42-43 were rejected under 35 U.S.C. § 103(a) as obvious over Katsurabayashi in view of Boss.

**1. Claims 1-13: selecting a document or documents**

Independent claims 1-2 recite selecting a document or documents "to be shared by the host user," and selecting an audience member or members with whom to share the documents. Independent claim 7 recites "selecting by the host user the document" and "selecting by the host user the participant." Similarly, independent claim 8 recites determining if a file associated with an application program has been selected and, if so, "providing a share view menu."

The Examiner has conceded Appellants' argument (Appeal Brief, page 7) that "[n]othing in Katsurabayashi says anything about selecting a document or documents for sharing." (See Examiner's Answer, page 11.) The Examiner's only response to this argument is that

it remains that Katsurabayashi selects the visibility of windows (and not applications) for given users, and in referring to individual windows, the windows have every capability and expectation of being opened upon particular document instances. Thus, Katsurabayashi teaches the claimed "real-time shared viewing of the at least one document (claim 1), when its window is designated for visibility.

(*Id.*; emphasis in original). In other words, the most that Katsurabayashi teaches or suggests, according to the Examiner, is "selecting the visibility of windows." Thus, even while asserting that Katsurabayashi teaches real-time shared viewing of a document, the Examiner concedes that, at most, Katsurabayashi's windows have the possibility of "being opened upon particular document instances." Assuming *arguendo* that such a possibility exists, this does not mean that Katsurabayashi teaches or suggests real-time shared viewing of a document. More importantly, even

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if Katsurabayashi did teach real-time shared viewing of a document, Katsurabayashi still would fail to read on Appellants' claims, which all require the *selection* of a shared document.

Further, the Examiner has also conceded that Katsurabayashi cannot teach the selection of documents and files required by Appellants' claims because it is clear that, in Katsurabayashi, any such selection would occur *after* a connection between the host and a client or clients had been established. (See Appeal Brief, pages 7-8; Examiner's Answer, page 11.) The Examiner stated merely that claims 1-2 and 7-8 "continue[] to be rendered obvious because Katsurabayashi and Boss suggest the user's 'selecting', as is used to drive a 'real-time shared viewing' (claim 1 quoted again), whether there had been connections of a more general nature or not." (Examiner's Answer, page 11.) In other words, the Examiner's rejection of Appellants' claims relies on the assertion that the cited references generally address subject matter similar to Appellants' claims, but the Examiner has plainly failed to meet the burden of stating a *prima facie* case of obviousness, which requires that one or more cited references specifically teach or suggest each and every one of Appellants' claim limitations.

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of each of claims 1-13 should be reversed.

**2. Claim 10: "a participant list associated with the share view menu"**

Claim 10, which depends from independent claim 8, recites "a participant list associated with the share view menu in response to the selection of the file." Appellants argued both that the Examiner had failed to state a motivation to combine Katsurabayashi and Boss to meet the limitations of claim 10, as well as that Katsurabayashi and Boss each fail to teach the limitations of claim 10. (Appeal Brief, pages 8-9.)

The Examiner's Answer newly asserts that one of ordinary skill would have been motivated to combine Katsurabayashi and Boss because of an alleged "usefulness that a selection mechanism for shared viewing in Boss will supply to the window list arrangement of Katsurabayashi, in facilitating more productive collaborations." (Examiner's Answer, page 11.) However, this newly stated allegation of a motivation to combine Katsurabayashi and Boss should be ignored by this Board at least because the Examiner provided absolutely no citation to any of the prior art of record as teaching the alleged motivation.

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Further, the Examiner's alleged motivation for one of ordinary skill to have combined Katsurabayashi and Boss belies the fact that these two references could not be combined at all. The Examiner ignored Appellants' arguments that "Katsurabayashi actually teaches away from the claimed invention by disclosing that its user information management unit handles all decisions about what windows to display to each user," and that "Katsurabayashi's disclosure thus obviates any need to display the recited share view menu." (Appeal Brief, page 9.) Similarly, Boss, having in effect only one participant, would not have been used with "a participant list," as is required by claim 10. (*Id.*)

The Examiner has done no more than assert that Katsurabayashi and Boss could be combined, and that such a combination would mean "that some form of listing will have to appear, as regards the visibility assigned to windows from Katsurabayashi, this reading upon claims 10's "participant list associated with the share view menu." (Examiner's Answer, page 12.) However, the Examiner's assertion ignores the fact that Katsurabayashi and Boss, either alone or taken together, fail to teach or suggest the limitations of claim 10. Moreover, the Examiner has ignored the arguments, summarized above, that Katsurabayashi and Boss are incapable of combination. The rejection of claim 10 should be reversed for either of these two reasons alone. Furthermore, even if the Examiner were correct that a combination of Katsurabayashi and Boss taught or suggested a list of windows, such a combination would fail to read on the "participant list" required by claim 10.

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claim 10 should be reversed.

**3. Claims 14 and 17: "displaying the window list in a user interface"**

Independent claims 14 and 17 recite "displaying the window list in a user interface." The Examiner has apparently conceded that Boss, alleged to teach this limitation in the Final Office Action (page 2), in fact does not. (*See* Examiner's Answer, page 12.) Appellants respectfully submit that, even if the Examiner is correct that Boss emphasizes "the control that the host has over the sharing of the application" (*id.*), such a general teaching would not have suggested that "a form of list become[s] available to that host user." (*Id.*) As argued in the Appeal Brief, Boss simply fails to teach or suggest "displaying the window list in a user interface." (Appeal Brief, page 10.) Moreover, even if Boss did contain such a teaching, Katsurabayashi's disclosure of a "management table" that is never displayed to users

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would teach against any combination with a reference teaching “displaying the window list in a user interface.”

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claims 14-17 should be reversed.

**4. Claims 42-43: “operating system configured for user selection . . .”**

Independent claim 42 requires an “operating system configured for user selection of at least one window and at least one recipient.” Similarly, independent claim 43 requires an “operating system configured for user selection of at least one object and at least one recipient.” The Examiner has newly asserted that, because Katsurabayashi allegedly teaches “window management . . . specifically . . . for the purpose of shared views upon a window . . . [i]n combination with Boss, this allows a host user to designate just what should be shared.” (Examiner’s Answer, pages 12-13.) However, as explained in the Appeal Brief, the Examiner’s proposed combination of Katsurabayashi and Boss is impossible because (1) Katsurabayashi is directed, at most, to allowing users to share *an application*, not to allowing users to share selected windows or objects *within an application*, and (2) even if Katsurabayashi did teach sharing selected windows or objects, it is clear that any such selection would occur *after* a connection between the host and a client or clients had been established. (Appeal Brief, page 11.) Either of these arguments, both of which have gone unmet, would alone justify reversal of the rejection of claims 42-43.

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claims 42-43 should be reversed.

**B. Claims 26-28 Are Patentable Over The Combination Of Katsurabayashi And Larson.**

Independent claims 26 and 28 were rejected under 35 U.S.C. § 103(a) as obvious over Katsurabayashi in view of Larson. Claim 26 includes the limitations of “selecting a name to save state of the application-sharing meeting configuration,” “saving an address for each participant,” and “saving descriptors for each shared application.” Claim 28 contains similar limitations.

In addressing the fact that the Final Office Action failed to state a *prima facie* case of obviousness in rejecting claims 26 and 28 (Appeal Brief, page 12), the Examiner provided only general statements that (1) “each [of Katsurabayashi and Larson] is from the art related to collaborative viewing of file content” (Examiner’s Answer, page 13), and (2) the mere alleged fact that Larson teaches elements of

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Appellants' claims admittedly not found in Katsurabayashi would have provided a motivation to combine the references. (*Id.*) Appellants respectfully submit that, as is clear from the face of the Examiner's Answer, the Examiner has plainly failed to state, much less provide support from the prior art of record for, a motivation to combine Katsurabayashi and Larson. For at least this reason, the rejection of claims 26 and 28 should be reversed.

Further, the Examiner's Answer fails to address Appellants' argument that Katsurabayashi and Larson are not in fact capable of combination. (Appeal Brief, pages 12-13.) Instead, the Examiner simply repeats the unfounded assertion that "naming and specifically saving a collaborative viewing session's parameters is indeed suggested" by Katsurabayashi and Larson. However, the Examiner has provided absolutely no explanation as to how Larson's conference object could have been made functional in the context of Katsurabayashi's application-sharing system. (*See id.*) Nor did the Examiner provide any explanation of how the proposed combination of Katsurabayashi and Larson, teaching two entirely different applications that operate completely differently (*see id.*, page 13), could be made operable. Thus, there is further independent reason for reversing the rejection of claims 26 and 28.

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claims 26 and 28 should be reversed.

**C. Claims 30 and 36-41 Are Patentable Over The Proposed Combination Of Katsurabayashi And Anderson.**

Independent claims 30, 36, and 39, as well as dependent claims 37-38 and 40-41, were rejected under 35 U.S.C. § 103(a) as obvious over Katsurabayashi in view of Anderson.

**1. Claim 30: "use item"**

Independent claim 30 recites "setting a use item equal to a menu item." The Examiner newly acknowledges that Katsurabayashi's management table does not contain "use items." (Examiner's Answer, page 14.) The Examiner asserts that Anderson's "management of session activities is such that the called-for use of a 'use item' is suggested." (*Id.*) Appellants respectfully submit that such a broad and general statement of motivation is insufficient to meet the burden of stating a *prima facie* case of obviousness, even if the Examiner had cited support for this statement in Anderson or any the prior art of record.



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Further, even if Anderson did suggest a "use item," the Examiner has wholly ignored Appellants' arguments that (1) because Katsurabayashi's management table does not contain "use items," Katsurabayashi simply could not have been combined with any reference that taught or suggested "use items," and (2) Katsurabayashi not only fails to teach any menu for user selection but in fact teaches away from such menus, and therefore could not be combined with any reference to achieve "setting a use item equal to a menu item." (Appeal Brief, page 14.)

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claim 30 should be reversed.

2. **Claim 30: "determining if the use item is currently in use . . ."**  
(Issue 7)

Claim 30 requires "determining if the use item is currently in use" and "if the use item is not in use, setting a label of the use item to the target name; setting an address of the use item to the associated network address; and enabling use of the use item." The Examiner relied on Anderson as allegedly teaching this claim limitation (Final Office Action, page 6), but has not disputed that, as argued in the Appeal Brief (page 14), Anderson clearly fails to teach the recited menu item, much less setting a use item equal to a menu item. (See Examiner's Answer, page 14.) Rather, the Examiner asserts generally and without support that "Anderson remains valid[] for teaching that the various components of a collaborative work should be managed as to their availability." (*Id.*) Moreover, regardless of whether Anderson inherently requires "an internal accounting for . . . network addresses, and the need to have connections properly in place" (*id.*), Anderson simply fails to teach or suggest certain limitations of claim 30. Specifically, the Examiner points to no portion of Anderson that teaches or suggests the limitations of claim 30 of "determining if the use item is currently in use" and "if the use item is not in use, setting a label of the use item to the target name; setting an address of the use item to the associated network address; and enabling use of the use item."

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejection of claim 30 should be reversed.

3. **Claim 30: inability to combine Katsurabayashi and Anderson**

The Examiner wholly ignored Appellants' argument that Andersen fails as a reference against claim 30 because it would have been impossible for one of ordinary skill in the art to have modified Katsurabayashi with the teachings of Andersen.

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(Appeal Brief, page 15.) For at this additional reason, as explained in the Appeal Brief, the rejection of claim 30 should be reversed.

**4. Claims 36 and 39: "a call manager ..."**

Independent claims 36 and 39 each require "a call manager configured to maintain status information regarding the connectivity, the status information including current number of active participants." The Examiner maintains that, because Anderson teaches managing "connection status," Anderson teaches managing "status information including current number of active participants." (Examiner's Answer, pages 14-15.) However, as the Examiner concedes (see id.), Anderson teaches managing shared applications, and does not teach or suggest the "active participants" to a conference call required by claims 36 and 39. Thus, the Examiner's unsupported assertions to the contrary, Anderson cannot teach or suggest the foregoing limitations of claims 36 and 39.

Accordingly, for at least the reasons stated in the Appeal Brief and herein above, the rejections of claim 36 and 39 should be reversed.


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**CONCLUSION**

In view of the foregoing arguments, a reversal of the rejections of record is respectfully requested of this Honorable Board. It is believed that no fee is due with this Reply Brief. However, please charge our Deposit Account No. 07-2347, under Order No. 99-820, from which the undersigned is authorized to draw, for any fee due with this Reply Brief.

Dated: June 17, 2005

Respectfully submitted,

By   
Joel Wall, Registration No.: 25,648  
Attorney for Applicants  
VERIZON CORPORATE SERVICES  
GROUP INC.  
c/o Christian Andersen  
600 Hidden Ridge Drive  
Mailcode HQE03H14  
Irving, TX 75038  
Telephone: 972-718-4800  
Customer No.: 32127